

**ANNUAL REPORT
OF THE
PROBATE CODE STUDY COMMISSION**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 1999

INDIANA LEGISLATIVE COUNCIL

1999

Senator Robert Garton

Chairman

Columbus

Speaker John Gregg

Vice-Chairman

Sandborn

Senator Richard Young

Milltown

Representative Paul Mannweiler

Indianapolis

Senator Harold Wheeler

Larwill

Representative Mark Kruzan

Bloomington

Senator Joseph Harrison

Attica

Representative Dale Grubb

Covington

Senator Patricia Miller

Indianapolis

Representative William Cochran

New Albany

Senator Thomas Wyss

Fort Wayne

Representative Charlie Brown

Gary

Senator James Lewis

Charlestown

Representative Jeffrey Linder

Waldron

Senator Earline Rogers

Gary

Representative Richard Mangus

Lakeville

Philip J. Sachtleben
Executive Director
Legislative Services Agency

PROBATE CODE STUDY COMMISSION

Membership Roster

Senators

Joseph Zakas, Chairperson
Granger

Connie Lawson
Danville

Rose Ann Antich
Merrillville

Representatives

Jonathan Weinzapfel, Vice-Chairperson
Mt. Vernon

Ed Mahern
Indianapolis

Ralph Foley
Martinsville

Lay Members

James W. Martin
Gary

Cynthia Boll
Columbus

Vincent Heiny
Fort Wayne

Robert Christopher
Monticello

Janet Ellis
Noblesville

Terry Harris
Crawfordsville

Diane Bender
Evansville

John Chappell
Jasper

Staff

Anne Haley
Attorney for the Commission

Susan Preble
Fiscal Analyst for the Commission

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Commission can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

I. STATUTORY DIRECTIVE

The Indiana General Assembly enacted legislation (IC 2-5-16-12) directing the Commission to do the following:

- "... study and recommend to the General Assembly needed changes in the following:
- (1) The probate code (IC 29-1).
 - (2) The trust code (IC 30-4).
 - (3) Other statutes affecting the administration of a decedent's estate, guardianships, probate jurisdiction, trusts, or fiduciaries."

II. INTRODUCTION

In addition to the charge to the Commission found in IC 2-5-16-12, current Indiana law provides that the Legislative Council may refer any issue related to probate or trusts and fiduciaries to the Commission for study. However, the Legislative Council did not refer any issues to the Commission in 1999. The issues studied by the Commission in 1999 were referred to the Commission by the bar and the Indiana judiciary.

III. SUMMARY OF WORK PROGRAM

The Commission met two times during the 1999 interim session on the following dates:

- (1) September 21, 1999.
- (2) October 19, 1999.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Commission recommended the following preliminary drafts (PDs) of legislation to the General Assembly:

- (1) PD 3258: Various probate and trust matters.
- (2) PD 3259: Probate notices and hearings.
- (3) PD 3262: Valuation for inheritance tax purposes.
- (4) PD 3264: Inheritance tax affidavit.
- (5) PD 3266: Investments by fiduciaries.
- (6) PD 3267: Various probate deadlines.
- (7) PD 3269: Inheritance, estate, and transfer tax due dates.
- (8) PD 3277: Charitable trusts.
- (9) PD 3282: Inheritance tax deduction for family business.
- (10) PD 3285: Applicability of the dead man's statute.
- (11) PD 3287: Power of attorney accounting.

(12) PD 3289: Construction of nonprobate transfers.

The Commission also made the following recommendations:

(1) The Commission endorses the enforcement of penalties for unreasonable refusal to honor the authority of an attorney in fact under a power of attorney, excluding a power of attorney for healthcare purposes.

(2) The Commission recommends that the issue of creditor's rights against nonprobate transfers be addressed.

The Commission is not required to file a final report.

The PDs listed above are on file in the Legislative Information Center, Room 230 of the State House, Indianapolis, Indiana, 46204. The telephone number of the Legislative Information Center is (317) 232-9856, and the mailing address is 200 West Washington Street, Suite 301, Indianapolis, Indiana 46204-2789.